

Pinball testimony ends

9-21-73
9-I

GERVAIS LIE OFFER TOLD

Garrison changes strategy

Dist. Atty. Jim Garrison today made a sudden strategy change in his federal pinball bribery trial, saving a fellow lawyer from a possible contempt of court citation.

Garrison, who is serving as his own defense attorney, called to the witness stand Russell Schonekas, who once represented government star witness Pershing Gervais.

Garrison wanted to question Schonekas about a meeting at which Gervais reportedly offered to testify for defendants in the bribery case.

Schonekas, who eventually testified he has been on Garrison's payroll at \$800 a month since February, refused to answer Garrison's questions on the grounds it would violate his attorney-client privilege and would be unethical.

Schonekas said U.S. Atty. Gerald J. Gallinghouse yesterday asked Gervais if he would waive the attorney-client privilege and Gervais refused.

"I'm not going to risk having my license taken away," the lawyer said in refusing to testify about the meeting.

U.S. District Court Judge Herbert W. Christenberry told Schonekas he did not think the attorney-client privilege was applicable in this case because

testimony already had been heard about what transpired at the meeting.

"This privilege does not exist in the presence of your client when statements are made that in no way affect the two of you," the judge said.

"If your honor wants to get a ruling from the ethics committee, then very well," Schonekas said.

"The ethics committee does not run this court," the veteran judge told the lawyer.

The judge called a brief recess, saying, "I'm going to give Mr. Schonekas a little time to think this over. I hate to order him to testify but this attorney-client privilege doesn't apply."

When the recess was over Garrison told the judge, "It is obvious that the utilization by Mr. Schonekas of the client-attorney relationship is very important to him. In view of that I have no questions to ask."

"This is a happy solution to what otherwise would have been an unpleasant task for this court," said Judge Christenberry.

Gallinghouse said he did not want to ask Schonekas about the meeting but he wanted to clear up one point. Under questioning by Gallinghouse Schonekas said he was retained by Garrison's office in February at \$800 a month. His job is filing writs of habeas corpus in federal court for the DA, he said.

By ALLAN KATZ
and LANNY THOMAS

Pershing Gervais once offered to say anything necessary to clear all defendants in the federal pinball bribery case, an attorney testified today in the trial of Dist. Atty. Jim Garrison and two others.

Testimony in the five-week-old trial was completed today and the jury was excused until Monday morning when closing arguments will begin. The case is expected to go to the jury Monday afternoon or Tuesday.

Before the jury was excused, defense attorneys renewed prior motions for directed verdicts of acquittal.

U.S. District Court Judge Herbert W. Christenberry denied the motions. "I think there is sufficient evidence here to go to the jury," he said. The trial was recessed at 1:07 p. m.

The testimony about Gervais' offer to work for the defense came from Guy Johnson who represents Louis M. Boasberg, a coin machine company executive who has pleaded guilty in the case.

Johnson said Gervais made the statement at a meeting of attorneys for the 10 persons charged in the case. Only Garrison and pinball figures John Aruns Callery and Robert Nims are on trial. Three of the others have pleaded guilty and four have been granted separate trials.

When Gervais made his offer, Johnson said, Russell Schonekas, Gervais' attorney, asked, "My God, Pershing, are you offering to perjure yourself?"

Johnson said Gervais then raised his right hand and said, "... you God, if you're up there strike me dead."

Gervais was the key figure in the government's trial of Garrison, Callery and Nims. During the government's presentation of its case more than 50 tape recorded conversations between Gervais and various defendants were heard by the U.S. District Court jury. Then, in a surprise move, Gervais took the witness stand Wednesday as a government rebuttal witness. He testified for two days.

Johnson said Gervais' offer to say anything required to clear the defendants was on an "if come" basis. He said Gervais wanted money placed in escrow and given to him if the defendants were cleared.

Johnson said, "We had various discussions about \$10,000, \$50,000 and

Turn to A-6, Column 1.

\$100,000. Gervais said to me in the presence of Norban Perry (chief of the Internal Revenue Service intelligence division) that he 'would dance' for anyone who would pay him—the man who had the money."

Johnson said none of the defendants gave Gervais any money.

The testimony by Johnson came as the trial neared the end of its fifth week and as it appeared it may be close to going to the jury.

Yesterday, the names of three New Orleans lawyers, including Johnson, were entangled in the widening net of corruption linked to the trial.

Gervais said one of the lawyers offered him \$25,000 on behalf of the entire defense counsel to destroy the government's case.

He identified the lawyer as Russell Schonekas, once an unsuccessful candidate for district attorney of Jefferson Parish.

Gervais also testified that lawyer Guy Johnson offered him \$10,000 for taped conversations he gathered for the government as an undercover agent. He said Johnson made the proposition in the name of Virgil Wheeler, the attorney for defendant John Aruns Callery.

The government completed its case yesterday after a lengthy examination of Gervais, a rebuttal witness who was the key to the prosecution.

Ironically, Gervais' testimony about Johnson, Schonekas and Wheeler came as he was being cross-examined by Garrison — a cross-examination that ended in fireworks.

Garrison asked Gervais if he had ever made an offer to a lawyer to

"clear" defendants in the case for \$100,000. "That is the absurdities of absurdities," Gervais retorted.

Gervais' temper flared and he said he knew what Garrison was "talking about" and he was "sorry" the matter was brought up.

"But now that it has come up I would like to tell what really happened," Gervais told U. S. Dist. Court Judge Herbert W. Christenberry.

Gervais then said Schonekas, an attorney Garrison hired for him, told him that the defense would "underwrite the fee" if he would sue the government.

The 53-year-old Gervais said he was at a meeting of the defense counsel when Schonekas made an "overture" that for \$50,000 they could write the script.

Gervais said Schonekas was to get \$25,000 and he was to get \$25,000.

Later, Gervais was asked by Asst. U.S. Atty. Michael Ellis if he authorized Schonekas to make the statement. Gervais said, "Not exactly." He added, however, that they had discussed it in a joking manner before the meeting.

Gervais said he did not want to go to jail for "perjury or for \$25,000."

He was asked if Louis C. LaCour, attorney for Nims, was at that meeting, and he said he did not recall seeing him there.

Johnson, Gervais said offered him the \$10,000 for the tapes in his office while Wheeler was sitting outside. Gervais testified earlier that the government had custody of the tapes. He said he told Johnson he wanted no part of the offer.

Gervais and Garrison exchanged heated words as Ellis questioned Gervais about his dealings with the DA several months after the DA's arrest.

Gervais said Garrison called him several times in Vancouver, British Columbia, and paid his expenses to move back to the United States. Gervais and his family had gone to Canada to live after the arrest of defendants.

GARRISON SPRANG from his seat and accused Gervais of lying. Gervais snapped back, "I say it is true. And I'm looking you dead in the eye."

Gervais said he was disenchanted with the job the government had provided for him in Canada in return for undercover work, and he wanted to return to this country and sue the government.

Garrison, he testified, was anxious for him to come back and do just that.

"I had no money to move back," said Gervais. "And time was expedient because he (Garrison) wanted to run for the Supreme Court."

He said Garrison offered him the legal services of Boston lawyer F. Lee Bailey. "To use his words — my quarterback."

Gervais said Mark Kadish, a member of Bailey's law firm who defended Garrison in the early days of the trial, was sent to Vancouver to discuss his return to the United States, he said.

He said he met Garrison as soon as he returned to New Orleans.

"ONE OF THE things Garrison insisted over and over was the point I should emphasize in my public statements. He said, 'Can't you say it's all in my book.' I told him I didn't know. I didn't read the book."

The book was a reference to Garrison's "Heritage of Stone."

Gervais looked at Ellis at one point in the testimony and said, "I'm going to tell you some things about Garrison you don't even know."

Later in the testimony, he turned to Judge Christenberry and said he was getting confused "because I'm so mad." Christenberry then called a recess.

Earlier, on direct examination, Gervais retracted accusations that the Garrison case was a "fraud" and that the government forced him to be an undercover agent.

He said he decided to return to New Orleans because of frustration in Canada, and he figured such statements were "prudent" if he were to make peace with Garrison.

The government framed Garrison to "silence" him, Gervais had said at the time.

ELLIS AGAIN asked Gervais: "Are the statements that the case was a fraud correct or incorrect?"

Gervais: "They are incorrect."

Q: "Do you have any reason whatsoever to lie now?"

A: "None whatsoever. This is my chance to tell the truth and the whole truth and once I get out I am forever clean."

A spectator in the rear of the courtroom broke into laughter and Judge Christenberry ordered the marshal to evict him. "If anyone else feels he can't control himself, let him leave now," Christenberry said.

Outside the courthouse, Gervais said he felt "great" about his testimony. "It's a rebirth because all past sins are wiped clean," he added.

Gervais repeated his charge that Garrison plans to arrest him for bribery. "It would be convenient," he said. "He once told me he could have someone arrested by the stroke of a pen."

(3)

9-24-73

9-8

After answering a few questions, Gervais was whisked away by agents of the Internal Revenue Service in an automobile.

Gervais testified he delivered bribes from Callery to Garrison from 1962 to 1970 and then became a government undercover agent. During those eight years, Garrison was paid \$50 a day, Gervais said. He said his share was 10 per cent.

Gervais also told the court that he carried \$1,000 bribes to Garrison on four occasions in 1971. During each delivery, he assisted the government in monitoring and recording their conversations from a transmitter concealed in his clothing, he said. Those tapes have not been altered, he testified.